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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

FARZAD KOHANBASH,

Plaintiff and Appellant,

v.

SPECIALTY BAKING, INC.,
et al.,

Defendants and Respondents.

B283117

(Los Angeles County
Super. Ct. No. VC 065792)

APPEAL from an order of the Superior Court of Los Angeles
County, Lori A. Fournier, Judge. Reversed.

Law Offices of Rafi Moghadam and Rafi Moghadam for
Plaintiff and Appellant.

Ramsey Law Group and Hussein Saffouri for Defendants and
Respondents.

This appeal concerns the amount of an attorney fee award to a prevailing party on a special motion to strike under the anti-SLAPP statute. (Code Civ. Proc., § 425.16.)¹ In the course of litigation over the right to purchase a parcel of real property, plaintiff and appellant Farzad Kohanbash filed an anti-SLAPP motion to strike portions of a cross-complaint filed by defendant and respondent Specialty Baking, Inc. (Specialty).² The trial court granted Kohanbash's motion, and as the prevailing party, Kohanbash was entitled to an award of attorney fees. (See § 425.16, subd. (c)(1).) The court awarded Kohanbash compensation for only five hours of attorney fees, a reduction of almost 80 percent from the 24 hours his attorney claimed. Kohanbash contends that the court abused its discretion by reducing the attorney fee award so steeply. We agree and reverse.

FACTS AND PROCEEDINGS BELOW

Specialty is the landlord of a parcel of real property that Kohanbash rents for his wholesale bakery business. Kohanbash claims that his lease, which he obtained in an assignment from a previous tenant, gives him an option to purchase the property at a fixed price. In 2016, Kohanbash filed suit against Specialty for fraud, breach of contract, quiet title, and other causes of action. He alleged that Specialty made false representations in an effort to dissuade him from exercising the purchase option, and improperly refused to recognize his exercise of the option. Specialty filed a cross-complaint alleging, among other claims,

¹ Unless otherwise specified, subsequent statutory references are to the Code of Civil Procedure.

² Specialty's chief executive officer, Robert Murillo, is also a defendant in Kohanbash's suit, but Murillo is not a party to the cross-complaint or anti-SLAPP motion.

that Kohanbash had slandered Specialty's title to the property by claiming Kohanbash had a superior right to purchase the property. This claim was based on an email Kohanbash's attorney had sent to a broker representing a prospective buyer of the property, informing the broker of the existence of the suit.

Kohanbash filed an anti-SLAPP motion to strike the cause of action for slander of title. In a 10-page memorandum of points and authorities, he argued that the cause of action arose from protected activity because the email from Kohanbash's attorney was a communication made in connection with a judicial proceeding. The anti-SLAPP motion contained seven pages of declarations from Kohanbash and his attorney, as well as 141 pages of exhibits. As part of the motion, Kohanbash requested an award of \$9,000 in attorney fees for 24 hours of work by his attorney at a rate of \$375 per hour.³ Kohanbash's attorney declared that he had already "spent at least 13 hours preparing [the anti-SLAPP m]otion, including conducting legal research, consulting with [his] client, reviewing the records and pleadings, [and] assembling the exhibits and declarations." In addition, Kohanbash's attorney anticipated "spending another [four] hours commuting to and from the courthouse and attending the hearing on [the m]otion, as well as another [seven] hours reviewing [Specialty's] opposition and preparing a reply."

Specialty filed a seven-page opposition and 105 pages of exhibits. Kohanbash filed a three-page reply. Kohanbash's attorney also attended a hearing at which the parties argued the anti-SLAPP motion and a motion to consolidate the case with a

³ Kohanbash also requested reimbursement for \$326 in costs, which the trial court awarded in full. The award of costs is not at issue in this appeal.

related case. At no point, either in its opposition brief or later, did Specialty dispute the reasonableness of the amount of Kohanbash's requested attorney fees.

The trial court granted the anti-SLAPP motion and dismissed the cause of action for slander of title from the cross-complaint. The court awarded Kohanbash \$1,875 in attorney fees for five hours of work at \$375 per hour. The court did not explain why it had reduced the fee award nor how it decided that five hours was sufficient.

DISCUSSION

A prevailing defendant in an anti-SLAPP motion is entitled to recover attorney fees reasonably spent on the motion. (*Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1320 (*Christian Research Institute*); § 425.16, subd. (c)(1).) When determining the amount of an award, the trial court begins with a touchstone or lodestar figure, which is calculated "by multiplying the number of hours reasonably expended by the reasonable hourly rate prevailing in the community for similar work." (*Christian Research Institute, supra*, 165 Cal.App.4th at p. 1321.) The court may reduce the award below the lodestar figure to take into account inefficient or duplicative efforts, and it may increase an award if warranted by other factors, such as the novelty or difficulty of the work, or the skill the attorney has displayed. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (*Ketchum*).)

We review anti-SLAPP attorney fee awards for abuse of discretion. (*Christian Research Institute, supra*, 165 Cal.App.4th at p. 1322.) This is a deferential standard, and the trial court's award " " "will not be disturbed unless the appellate court is convinced that it is clearly wrong." ' ' ' (*Ketchum, supra*, 24 Cal.4th at p. 1132.) This standard does not entirely insulate trial courts from review in

deciding attorney fee awards, however. “‘[R]eversal is appropriate where there is no reasonable basis for the ruling or the trial court has applied “the wrong test” or standard in reaching its result.’” (*Gorman v. Tassajara Development Corp.* (2009) 178 Cal.App.4th 44, 92 (*Gorman*).)

The trial court is not required to issue a statement of decision explaining its reasoning for an award of attorney fees. (*Ketchum, supra*, 24 Cal.4th at p. 1140.) Nor is the court required to explain each deduction from a claimed fee award. (*Gorman, supra*, 178 Cal.App.4th at p. 101.) In the absence of an explanation, we draw inferences regarding the trial court’s reasoning from the amount of the award and the circumstances of the case. Here, the trial court calculated the award based on Kohanbash’s attorney’s claimed hourly rate of \$375 per hour. We thus infer that the court found the billing rate reasonable, but concluded that Kohanbash’s attorney claimed an excessive number of hours for the work involved in the motion. (See *Christian Research Institute, supra*, 165 Cal.App.4th at p. 1323 [“When the trial court substantially reduces a fee or cost request, we infer the court has determined the request was inflated”].)

When an attorney’s claims are excessive, a drastic reduction of the number of hours may be warranted. For example, in *Christian Research Institute, supra*, 165 Cal.App.4th 1315, the court noted that there was a great deal of evidence of bill padding in the record, and that this supported the trial court’s reduction of the attorney fee award by more than 90 percent. (*Id.* at pp. 1319, 1324–1325.) There is no such evidence in this case. Kohanbash claimed reimbursement for 24 hours researching and drafting a motion, assembling exhibits, reviewing the opposition, drafting a reply, and attending a hearing. These are all core requirements for an attorney in litigating an anti-SLAPP motion, and they do not

suggest that Kohanbash's attorney over-litigated the motion. Even in the case of a relatively straightforward motion like the one at issue here, we cannot imagine that any attorney could represent his client responsibly and perform all these steps in only five hours. Indeed, Kohanbash's claim for fees was so apparently reasonable that Specialty did not even object to it.

Although we accord substantial deference to the trial court in its decisions regarding the amount of attorney fees, the amount of the award "must be able to be rationalized to be affirmed on appeal." (*Gorman, supra*, 178 Cal.App.4th at p. 101.) There is simply no evidence in this case to support the trial court's award of only five hours in attorney fees. For this reason, we reverse the trial court. Rather than remand the case for further litigation that is likely to cost the parties and the court more money than is in dispute, we will order the trial court to enter an award of the full amount of attorney fees Kohanbash has requested.

DISPOSITION

The trial court's order regarding attorney fees is reversed. On remand, the trial court shall enter a new award of attorney fees of \$9,000 in favor of appellant. Appellant is awarded his costs on appeal.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

BENDIX, J.